STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

MT. PLEASANT MUNICIPAL UTILITIES, Public Employer/Objector, and IBEW, LOCAL UNION NO. 55, Employee organization/ Election Petitioner.	)	CASE NO. 4516

RULING ON OBJECTIONS TO ELECTION

This matter is before the Public Employment Relations Board (PERB or Board) on appeal by the Mt. Pleasant Municipal Utilities (Employer) from a proposed decision and order issued by a PERB Administrative Law Judge (ALJ) on November 15, 1991, in which the ALJ recommended dismissal of objections filed by the Employer to a representation election conducted by PERB pursuant to an election petition filed by IBEW, Local Union No. 55 (Union).

Pursuant to PERB Rule 9.2, we have heard this case upon the record submitted before the ALJ. Oral arguments were presented to the Board via telephone conference call on December 16, 1991, by Ronald C. Henson, attorney for the Employer, and Joseph E. Day, attorney for the Union. Both parties filed briefs on appeal. Following oral arguments, both parties submitted additional written arguments on December 20, 1991, concerning pending motions.

Pursuant to Iowa Code §17A.15(3), on this review we possess all powers which we would have had had we elected, pursuant to PERB rule 2.1, to preside at the evidentiary hearing in the place of the ALJ.

Based upon our review of the record before the ALJ, as well as our consideration of the parties' written and oral arguments, we make the following findings of fact and conclusions of law.

FINDINGS OF FACT

On its appeal of the ALJ's proposed decision, the Employer does not contest the ALJ's findings of fact. The ALJ's findings are supported by the record, and we hereby adopt those findings as our own and incorporate them herein as though fully set forth.

CONCLUSIONS OF LAW

In its Objections to Election, filed September 19, 1991, the Employer set forth two objections. Objection No. 1 dealt with the Board's decision to conduct the election by mail rather than on-site. Objection No. 2 dealt with pre-election statements made to a prospective voter by Brian Beem, a recently-terminated manager of the Employer. The Employer alleged that Beem's statements encouraging a vote in favor of the union could have had a threatening or coercive effect on employees.

The ALJ concluded that neither of the above objections were valid, and the Employer does not appeal from these determinations of the ALJ. Our independent review of the record has led us to the same conclusions as were reached by the ALJ, and we adopt those conclusions with respect to the above two objections and incorporate them herein as though fully set forth.

On appeal, the Employer contests the ALJ's conclusions regarding a third theory advanced by the Employer which was not included among the Employer's original objections, but which

surfaced in the Union's response to the objections and was made a subject of the Employer's opening statement and testimony presented at hearing. The Employer also included arguments with respect to this third theory in its post-hearing brief to the ALJ. Specifically, this theory revolves around statements made by the Union's Assistant Business Manager, Sandy Opstvedt, at an employee meeting shortly before the election concerning Beem's statements encouraging a vote in favor of union representation. Opstvedt advised employees not to discuss the election or other union matters with Beem. Opstvedt was suspicious of Beem's motives in encouraging support for the union, and suggested that she "wouldn't be surprised" if this was an employer strategy to learn more about union activities. Other employees apparently shared Opstvedt's view as to the possibility that Beem's motives were suspect.

The sole issue raised by the Employer on appeal involves its claim that the ALJ "never addressed the interference with employee free choice caused by Ms. Opstvedt's widely accepted suggestion," and that the ALJ's proposed decision is, therefore, contrary to law, not supported by the facts, and not supported by a preponderance of the competent evidence on the record.

In its briefs and oral argument presented to the Board, the Union argued that the Employer should not be allowed to rely on this new theory (Objection No. 3), since it failed to include this theory in its original Objections to Election filed with the Board. In response, the Employer argued that it believed its theory to be "fairly subsumed" in its previously-plead Objection No. 2. In the

event the Board does not agree, the Employer made a Motion to Amend the Pleadings to Conform to the Proof.

PERB rule 2.9 provides, in relevant part:

> 621-2.9(20) Amendments. A petition, complaint or answer may be amended for good cause shown, but not ex parte, upon motion at any time prior to the decision. Allowance of such amendments, including those to conform to the proof, shall be within the discretion of the board or administrative law judge. The board or administrative law judge may impose terms, or grant a continuance with or without terms, as a condition of such allowance. Such motions prior to hearing shall be in writing filed with the board, and the moving party shall serve a copy thereof upon all parties by ordinary mail.

We believe the Employer's theory constitutes a new objection, not included in its original pleading. However, as noted, the Employer presented evidence and arguments regarding its new theory at hearing and in writing before the ALJ, all without objection from the Union. We believe the issue has been litigated. Accordingly, and because, as stated above, we possess on this review all powers which we would have possessed had we elected to preside at the evidentiary hearing in the place of the ALJ, we conclude that the Employer's Motion to Amend should be granted.

We disagree with the Employer's argument on appeal that the ALJ "failed to address" the issue of the impact of Opstvedt's statements on employee free choice. We believe that a fair reading of the ALJ's decision indicates that he considered and rejected the Employer's argument with respect to this issue. We concur with the ALJ and conclude that Opstvedt's statements did not constitute "misstatements of material facts" or "other misconduct" preventing employee free choice within the meaning of PERB subrules 5.4(3)(b)

or (g). As noted by the ALJ, Opstvedt was not purporting to relate facts known by her to be true, but was merely voicing her conjecture, or suspicions, that Beem's and the Employer's motives might be questionable. This situation is clearly distinguishable from the situation in NLRB v. Santee River Wool Combing Co., 537 F.2d 1208, 92 LRRM 2922 (4th Cir. 1976), which the Employer cites in support of its position.

In Santee River, two union proponents intentionally made false statements to employees at a meeting on the eve of the election in order to win voters. They told employees that a fellow employee who favored the union had been discharged for his union activities and that the union would help him get his job back with back pay, even though they knew the fellow employee had in fact not been discharged for union activity, but had been given a requested medical leave of absence. Id., 92 LRRM at 2923.

We conclude the ALJ was correct in determining that no conduct occurred here which warrants the overturning of the election. We adopt the ALJ's conclusions, as modified by our discussion above.

Following the Employer's appeal in the instant case, the Union filed a "Motion for Sanctions" on December 12, 1991. The Union alleges that the Employer filed the instant appeal merely for harassment purposes and to needlessly increase the cost of this litigation. The Union requests the imposition of sanctions by PERB, pursuant to Rule 80(a) of the Iowa Rules of Civil Procedure, including dismissal of the appeal, payment of all reasonable

expenses incurred because of its filing, including attorney fees, and any such other sanctions we deem appropriate.

We think it is doubtful that Ia.R.Civ.P. 80(a) applies here, since it is well settled that administrative agencies "have only such authority as is specifically conferred upon them by the legislature or necessarily inferred from the statutes which created them." Iowa Power and Light Co. v. ISCC, 410 N.W.2d 236 (Iowa 1987); AEA 7, 90 PERB 4250. Even if such authority had been shown, we believe that insufficient evidence has been presented to support the imposition of sanctions in this case. Accordingly, the Union's Motion for Sanctions is denied.

Based on all of the foregoing, we issue the following order:

IT IS THEREFORE ORDERED that the Employer's objections to election are overruled.

IT IS FURTHER ORDERED that the International Brotherhood of Electrical Workers, Local 55,[1] is certified as the exclusive bargaining representative for the employees of the Mt. Pleasant Municipal Utilities in the following-described bargaining unit:

> INCLUDED: Water Treatment Operator, Operator, Operator and Maintenance, Operator/Chemical Operator, Trouble Shooter/Water Treatment Operator, Water Crew, Groundsman, Backhoe Operator Trainee, Backhoe Operator, Utility Advisor, Lineman, Office Clerk, Collection Officer, Meter Reader and Custodian.
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> EXCLUDED: Purchasing Agent, Utilities Manager and any other persons excluded by section 4 of the Act.

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[1]Official notice has been taken of the Union's Registration Report, Annual Report, Constitution and By-laws on file with the Board, all of which comply with requirements of the Act and Board rules.

DATED at Des Moines, Iowa this 24th day of December, 1991.

PUBLIC EMPLOYMENT RELATIONS BOARD

RICHARD R. RAMSEY, CHAIRMAN

M. SUE WARNER, BOARD MEMBER

DAVE KNOCK, BOARD MEMBER

STATE OF IOWA

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

MT. PLEASANT MUNICIPAL UTILITIES, Public Employer and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 55, Petitioner	)	CASE NO. 4516

PROPOSED DECISION AND ORDER

Statement of the Case

James A. McClimon, Administrative Law Judge. A public hearing was held in Des Moines, Iowa, on October 16, 1991, pursuant to objections to election filed under Section 15.4 of the Public Employment Relations Act (Act), and Rule 5.4(3) of the Rules of the Public Employment Relations Board (Board). The Mt. Pleasant Municipal Utilities (Employer or Utilities), and the International Brotherhood of Electrical Workers, Local 55 (Union) filed post-hearing briefs which were received on October 29, 1991.

The Mt. Pleasant Municipal Utilities filed timely objections to a Board-supervised mail ballot representation election. In its objections the Employer alleges: (1) The Union's notification to the Public Employment Relations Board that the Union preferred a mail ballot election, as opposed to an "on-site" election requested by the Employer, conveys an impression to employees that the Board endorses the Union as the employees' exclusive bargaining

representative; and (2) Union statements to bargaining unit employees alleging that the Employer directed former Utilities Manager Brian Beem to infiltrate the Union, prevented employees from freely expressing their preference in the Board-supervised election.

The parties were present at hearing and they had full opportunity to present evidence and testimony.[1] Based upon the entire record presented in this case, and the parties' briefs, I make the following:

FINDINGS OF FACT

The following facts are not in dispute:[2]

1. July 8, 1991: The Union files with the Board a bargaining representative determination petition seeking to represent approximately twenty-eight (28) employees employed by the Mt. Pleasant Municipal Utilities.

2. August 15, 1991: The Board issues an Order of Election in which the Board states that the Board will establish the election details, including the date, time and voting procedure for a Board-supervised secret ballot election.

3. August 16, 1991: A Board representative notifies the Employer and Union in writing that the election will be conducted by mail ballot.

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[1]The hearing was tape-recorded as required by Section 17A.12(7), 1991, Code of Iowa.

[2]At hearing the parties requested that the undersigned Administrative Law Judge take official notice of the contents of the Board's administrative file in this case, and at the conclusion of the hearing the parties reviewed the contents of the Board's file.

4. September 9, 1991: Pursuant to the mail ballot procedures established by the Board, a Board representative, in the presence of Employer and Union representatives, counts the ballots at the Board's office. A majority of the eligible employees voted for the Union as their exclusive bargaining representative. Eligible bargaining unit employees voted 19 to 7 for the Union as the employees' exclusive bargaining representative.

5. September 19, 1991: The Employer files its timely objections to the election.

6. September 24, 1991: The Union files its written response to the Employer's objections.

In addition to these facts, testimony at hearing reveals that sometime prior to the Board's decision to conduct a mail ballot representation election, the Union held a meeting attended by approximately 20 bargaining unit employees. During that meeting Union Assistant Business Manager Sandy Opstvedt asked the employees whether the employees preferred either a Board-supervised mail ballot or "on-site" election. Opstvedt, however, advised the employees that she indicated to a Board representative that the Union preferred an election conducted at the Employer's work site. According to Opstvedt, the Board representative told her that the Employer also objected to a mail ballot election, but that Board budget constraints may require that the more cost-effective mail ballot process would be the Board's preferred election procedure. Nonetheless, the Board representative told Opstvedt that the Board was interested in the Employer and Union's preferred voting procedure. At the meeting, the employees initially voted for a Board-supervised "on-site" election, however, after Opstvedt told

the employees that the Employer also objected to a mail ballot election the employees reconsidered and voted for a Board-supervised mail ballot election. Opstvedt subsequently notified the Board representative of the Union's preference for a mail ballot representation election. Opstvedt also testified that the employees' discussion of the voting procedure question was intended to indicate to the Board the employees' election procedure preference; however, the employees understood at the time of the meeting that the Board had the authority to conduct either a mail ballot or "on-site" election, regardless of the Employer and Union's preferred voting procedure.

The employees also discussed at the meeting the content of a conversation between a bargaining unit employee and former Utilities Manager Brian Beem who had been discharged by the Employer on July 29, 1991. After Beem's discharge, the Utilities Board of Trustees assembled bargaining unit employees at the Employer's work site, and at that time the Employer notified the employees that the Employer would seek employee input in selecting Beem's replacement.

Testimony reveals that Brian Beem contacted an employee to encourage the employee to vote for the Union. At the meeting, Sandy Opstvedt advised the employees not to discuss with Beem either the representation election or other Union matters. Opstvedt was suspicious of Beem encouraging employees to vote for the Union. Opstvedt's suspicion was based on her opinion of Beem's anti-union attitude when Beem served as Utilities manager.

Opstvedt testified that she suggested to the employees that Beem's discharge may have been fabricated so that Beem could infiltrate the Union and report Union activities to the Employer. According to Opstvedt, not all of the employees attending the meeting agreed with her assessment of Beem's motives, but the employees nonetheless agreed not to talk to Beem. Opstvedt noted that at the meeting the employees "were laughing and joking" about Beem's attempt to encourage an employee to vote for the Union.

CONCLUSIONS OF LAW

The issues in this case are: (1) Whether the timing of the Board's decision to conduct a mail ballot representation election conveyed to bargaining unit employees that the Board endorsed the Union; and (2) Whether Union statements to bargaining unit employees that the Employer's discharge of Utilities Manager Brian Beem was fabricated, so as to allow Beem to infiltrate the Union, could have affected the outcome of the election.

Section 15.4 of the Public Employment Relations Act states, in relevant part:

> [I]f the Board finds that misconduct or other circumstances prevented the public employees eligible to vote from freely expressing their preferences, the Board may invalidate the election and hold a second election for the public employees.

Consistent with Section 15.4, the Public Employment Relations Board established the following rules:

> 5.4(3) Objectionable conduct during election campaigns. The following types of activity, if conducted during the period beginning with the filing of an election petition with the board and ending at the conclusion of the

> election, and, if determined by the board that such activity could have affected the results of the election, shall be considered to be objectionable conduct sufficient to invalidate the results of an election.
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> g. Any other misconduct or other circumstances which prevents employees from freely expressing their preferences in the election.

The Employer contends that the Union violated Board Rule 5.4(3)g. The Employer objects to the Union's decision to notify the Board that the Union favored a Board-supervised mail ballot election. The Employer argues that the timing of the Union's communication with the Board was designed to convey an impression to bargaining unit employees that the Board endorses the Union as the employees' exclusive bargaining representative.

The Employer also contends that bargaining unit employees did not have an opportunity to freely express their preference in the election because Union Representative Sandy Opstvedt convinced employees that, through former Utilities Manager Brian Beem, the Employer attempted to infiltrate the Union. The Employer argues that the Union's misrepresentation of the Employer's motives for discharging Brian Beem, without an opportunity to reply prior to the election, was intended by the Union to coerce employees in voting for the Union. The Employer asserts that Beem is no longer affiliated in any way with the Employer, and the Employer believes that Beem's conduct encouraging an employee to vote for the Union was an attempt by Beem to seek some form of revenge against the Employer for Beem's discharge.

The Union contends that it did not violate Board Rule 5.4(3)g. In support of its position, the Union notes that Sandy Opstvedt advised bargaining unit employees that due to budgetary considerations the Board preferred a mail ballot as opposed to an "on-site" representation election. The Union argues, therefore, that absent any misrepresentation of the Board's neutral position in this case, employee free choice in the Board-supervised election was not affected by the employees' concurrence with the Board's preferred voting procedure, as opposed to the Employer's preference for an "on-site" election.

The Union also contends that former Utilities Manager Brian Beem's conversation with one bargaining unit employee encouraging the employee to vote for the Union is not sufficient reason to invalidate the Board-supervised representation election. The Union argues that although Sandy Opstvedt was suspicious of Beem's motives, the employees did not consider Beem's conduct as creating an atmosphere of fear or reprisal. The Union also argues that bargaining unit employees were not threatened by Beem because the employees understood that the Employer did not intend to rehire Beem as Utilities Manager, because the Employer advised the employees that the Employer would seek employee input in selecting Beem's replacement.

In reviewing a party's objections to a Board-supervised representation election, Board Rule 5.4(3) requires a review of the campaign activities which occur during the period beginning with the filing of the election petition with the Board,and ending at

the conclusion of the election. In this case, the Employer objects to two incidents which occurred during the approximately two month period between the Union's filing of its representation petition on July 8, 1991, and ending at the vote count on September 9, 1991. Each incident will be separately addressed below.

I. Board Neutrality Issue

The Mt. Pleasant Municipal Utilities does not object to the Public Employment Relations Board's conduct in this case. Rather, the Employer argues that the Union intended to persuade bargaining unit employees that the Board endorsed the Union by Opstvedt notifying the Board immediately prior to the election that the Union preferred a Board-supervised mail ballot election as opposed to an "on-site" representation election as requested by the Employer. The Employer believes that the Union's polling of the employees and the subsequent communication with the Board could have affected the outcome of the election.

With respect to the Board's statutory authority to determine whether a party's conduct prevented employees from freely selecting a labor organization, the Board concluded in Cedar Falls Utilities, 83 PERB 2170, that Section 15.4 of the Public Employment Relations Act:

> ...is very broad in that "misconduct or other circumstances" may invalidate an election. In adopting Rule 5.4(3), the Board intended to provide guidelines to the parties regarding what constitutes permissible conduct. The Rule is based on federal precedent interpreting a statute similar to Iowa Code §20.15.4. Obviously, the "could have affected" test should not be construed in such

> a manner as to "result in virtually every election in which any form of campaigning occurred being overturned" as the Employer argues. The Rule allows a reasoned judgment regarding whether the misconduct, even if proven, actually could have affected the outcome of the election, thus preventing the employees from freely expressing their preferences, a violation of §20.15(4) of the Act. (Cedar Falls Utilities, at pp. 5-6).

The undisputed facts in this case demonstrate that sometime prior to the Board's decision to conduct a mail ballot representation election, the Union held a meeting attended by approximately 20 bargaining unit employees. During that meeting the employees initially voted in favor of a Board-supervised election conducted at the Employer's work site. However, after Union Representative Sandy Opstvedt advised the employees that the Employer also preferred an "on-site" election, the employees reconsidered and voted in favor of a Board-supervised mail ballot election. Opstvedt then notified the Board of the Union's preferred voting procedure.

The evidence presented in this case does not demonstrate that Union discussions with bargaining unit employees regarding the employees' preferred voting procedure somehow affected the employees' perception of the Board's neutrality in this case. Rather, the evidence demonstrates that the employees' discussion of the voting procedure question was intended, as requested by a Board representative, to indicate to the Board the employees' preferred election procedure. The employees understood that the Board has the authority to decide whether to conduct either a mail ballot or

"on-site" election. It is reasonable to conclude, however, that the employees' preference for a mail ballot election was an immediate reaction to disagree with the Employer regarding a voting process, even though like the Employer, the Union initially favored an "on-site" representation election. Most importantly, the record clearly establishes that the Union's communications with the Board regarding the Union's preferred voting procedure was consistent with the Board representative's instructions.

The United States Supreme Court has concluded that a party seeking to overturn a Board-supervised representation election has the burden of showing that the election was unfairly conducted. NLRB v. Mattison Machine Works, 365 U.S. 123, 47 LRRM 2437 (1961). In this case the Employer has not met this burden of proof. The facts clearly establish that the Union's conduct was not designed to either create an impression that the Board endorsed the Union or to misrepresent the Board's neutrality. Accordingly, I conclude that the employees' discussion and subsequent decision favoring a Board-supervised mail ballot representation election does not constitute a sufficient reason to invalidate the results of the representation election held in this case.

II. Third Party Interference Issue

The Employer objects to Union Representative Sandy Opstvedt's statement to certain bargaining unit members regarding the Employer's motives for discharging Utilities Manager Brian Beem.

With respect to the impact of statements made prior to a Board-supervised representation election, the Board must balance

the employees' right to freely choose a bargaining representative against the employer and union's statutory right to communicate its views to employees. Section 10.4 of the Public Employment Relations Act is primarily intended as a defense to a prohibited practice complaint, but it is also helpful in reviewing alleged misconduct during a Union representation campaign. Section 10.4 of the Act states:

> The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of any unfair labor practice under any of the provisions of this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

In comparing Section 10.4 of the Act with Section 8(c) of the National Labor Relations Act, the Iowa Supreme Court has concluded that, like Section 10.4, Section 8(c) is designed to encourage free debate and protect an employer and union's constitutional right to free speech during a union representation campaign. The Court also adopted the following test in reviewing objections to election under Board Rule 5.4(3)g:

> The test in a given case is whether a sufficient showing is made to permit a conclusion that the allegedly offensive conduct and the surrounding circumstances cumulatively tended to interfere with the election. ...Application of that test requires a finding of (1) proscribed conduct (2) which prevented the employees from "freely registering their choice of a bargaining representative." (citations omitted).[3]

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[3]Mt. Pleasant Community School District v. PERB, 343 N.W.2d 472, 481 (Iowa 1984).

The evidence presented in this case establishes that Sandy Opstvedt suggested to employees that Brian Beem's discharge as Utilities manager may have been fabricated so that Beem could infiltrate the Union and report Union activities to the Employer. The evidence, however, clearly demonstrates that Opstvedt's suspicion of the Employer's motive was ill-advised because there is no evidence of an attempt on behalf of the Employer to influence the vote of any employee. Brian Beem acted individually and not as an agent or representative of the Employer. Beem's actions may best be described, as urged by the Employer, as an attempt by Beem to seek some form of revenge against the Employer for Beem's discharge.

The Public Employment Relations Board has previously concluded that a Board-supervised representation election should not be lightly set aside.[4] With respect to allegations of third party interference in a Board-supervised election federal caselaw has developed a distinction between conduct undertaken by a party to a representation election and actions undertaken by individuals or third parties.[5] The federal courts have concluded that:

> Because "neither unions nor employees can prevent misdeeds...by persons over whom they have no control," less weight is given to

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[4]Lucas County Memorial Hospital, 77 PERB 627, 792 & 793.

[5]In Mt. Pleasant Community School District v. PERB, 343 N.W.2d 472 (Iowa 1984), the Iowa Supreme Court ruled that federal caselaw interpreting objections to election under the National Labor Relations Act is persuasive authority in the Board's review of alleged election misconduct under the Public Employment Relations Act.

> misconduct by individual employees or third parties. Beaird-Poulan Division v. NLRB, 107 LRRM 2646, 2650 (8th Cir. 1981). [A] rule giving the same weight to conduct by third persons as to conduct attributable to the parties would substantially diminish the possibility of obtaining quick and conclusive election results. NLRB v. Griffith Oldsmobile, Inc., 79 LRRM 2650, 2653 (8th Cir. 1972).

In this case the record demonstrates that former Utilities Manager Brian Beem, a third party, spoke with and encouraged only one employee to vote for the Union. However, the record does not establish that Beem could somehow grant the employee a benefit in voting for the Union because Beem was not acting on behalf of the Employer.

Testimony also demonstrates that at the Union meeting where Sandy Opstvedt gave her opinion of the motives for Brian Beem's conduct, bargaining unit employees attending that meeting did not anticipate that Beem would be able to take any personnel action against employees who did not vote for the Union in the Board-supervised representation election. Indeed, the record shows that employees attending the meeting were "laughing and joking" about the possibility of Beem's carrying through with any veiled threats or promises. Employees therefore could independently evaluate Beem's motives for themselves.

Former Utilities Manager Brian Beem is clearly a third party in this case because he has no real or apparent authority to act as an agent or representative of the Employer. Any influence Beem may have had on one bargaining unit employee with whom he spoke, was

clearly countered by the bargaining unit employees' understanding that the Employer would not rehire Beem, and that Beem no longer has the authority to speak on behalf of the Utilities.

There is no question that the Union's suspicion of Brian Beem's motives was based on conjecture and not facts. Nonetheless, to conclude that the Union's opinion of Beem's motives is proscribed conduct sufficient to invalidate the Board-supervised election would require the Board to conclude that this incident rises to the level of a per se violation of Board Rule 5.4(3).

Based upon the foregoing Findings of Fact and Conclusions of Law, the following is issued:

ORDER

IT IS HEREBY ORDERED that the Mt. Pleasant Municipal Utilities' objections to election is dismissed, in its entirety.

IT IS FURTHER ORDERED that the International Brotherhood of Electrical Workers, Local 55,[6] is certified to be the exclusive bargaining representative for certain employees of the Mt. Pleasant Municipal Utilities, in the following described bargaining unit:

> INCLUDED: Water Treatment Operator, Operator, Operator and Maintenance, Operator/Chemical Operator, Trouble Shooter/Water Treatment Operator, Water Crew, Groundsman, Backhoe Operator Trainee, Backhoe Operator, Utility Advisor, Lineman, Office Clerk, Collection Officer, Meter Reader and Custodian.
>
> EXCLUDED: Purchasing Agent, Utilities Manager and any other persons excluded by Section 4 of the Act.

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[6]I have taken official notice of the Union's Registration Report, Annual Report, Constitution and By-laws on file with the Board, and I find that these documents comply with all requirements under the Act and Board Rules.

DATED at Des Moines, Iowa this 15th day of November, 1991.

JAMES A. McCLIMON
ADMINISTRATIVE LAW JUDGE